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7 IN THE UNITED STATES BANKRUPTCY COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO DIVISION

10 In re:
11 TERRY L. HOPKINS,
12 Debtor.
13

Case No. 09-33485-DM
Chapter 7

14
15 **TRUSTEE'S OPPOSITION TO DEBTOR'S MOTION TO DISMISS CASE**
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17 COMES NOW E. Lynn Schoenmann, trustee herein ("Trustee"), and hereby files this
18 opposition to the Debtor's Motion to Dismiss Voluntary Petition ("Motion") filed by the Debtor in
19 this case on November 10, 2009.

20 In the Motion, the Debtor discloses that her attorney filed her petition twice, thereby initiating
21 a second case in this Court, Case No. 09-33486 ("Second Case"), in addition to the first case. Janina
22 M. Elder is trustee in the Second Case.

23 The Trustee opposes the requested dismissal of this case on the grounds that it is not in the
24 best interest of creditors. The Trustee does not oppose dismissal of the Second Case.

25 The Debtor filed a skeleton petition in this case and therefore the Trustee does not know the
26 full extent of the Debtor's assets and unsecured claims. With the petition, the Debtor filed a creditor
27 matrix that listed 4 entities, consisting of three mortgage holders and JP Morgan Chase Bank, which
28 may also be a mortgage holder. However, in this case, GE Money Bank filed a request for notice

1 (Docket No. 7, filed November 24, 2009) and in the Second Case GE Money Bank (Docket No. 5,
2 filed November 24, 2009) and American Express Bank FSB (Docket No. 4, filed November 19,
3 2009) each filed a request for notice. Neither of those entities are listed on the creditor matrix filed
4 by the Debtor in either case. They are also presumably unsecured creditors. After the filing of the
5 petition in this case, the Trustee received a letter from Wells Fargo Bank disclosing that the Debtor
6 has \$43,223.69 in her checking account. Therefore, it appears that there would be funds available for
7 unsecured creditors in this case.

8 In her motion, the Debtor alleges that she is negotiating with her lender to modify her home
9 loan. However, she gives no details of those negotiations and provides no facts upon which to assess
10 the likelihood of success. Moreover, after the filing of the motion, Litton Loan Servicing LP
11 ("Litton"), the mortgage holder on the Debtor's residence, filed its Motion for Relief from Stay
12 (Docket No. 5, filed November 23, 2009). The negotiations appear to have ended. In its motion,
13 Litton states that the value of the Debtor's residence is \$795,000 and the mortgage totals \$1,429,038,
14 with the Debtor being 12 months in default on monthly payments of \$5,421.67 each. Given those
15 amounts, a restructuring of the Debtor's mortgage does not appear feasible.

16 Lastly, a dismissal of this case could pose dangers for creditors if the Debtor has to file
17 another bankruptcy case within the next year. Section 362 of the Bankruptcy Code contains several
18 provisions that grant automatic relief from the stay where one or more earlier cases were filed and
19 dismissed within the year before the bankruptcy case is filed. Here, the Debtor has filed two petitions
20 and therefore a third petition filed in the future would present administrative problems for a trustee
21 and could cause the loss of assets for creditors.

22 Based on the foregoing, the Trustee requests that the Court deny the Debtor's motion to
23 dismiss this case and direct that the Debtor file her Schedules and Statement of Financial Affairs.

24 DATED: November 25, 2009

GOLDBERG, STINNETT, DAVIS & LINCHEY
A Professional Corporation

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27 By: /s/ Daniel M. Linchey
Attorneys for E. Lynn Schoenmann, Trustee
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CERTIFICATE OF SERVICE BY FIRST CLASS MAIL

I, the undersigned, state that I am employed in the City and County of San Francisco, State of California, in the office of a member of the bar of this Court, at whose direction the service was made; that I am over the age of eighteen years and not a party to the within action; that my business address is 44 Montgomery Street, Suite 2900, San Francisco, California 94104-4789; that on the date set out below, I served a copy of the following:

TRUSTEE'S OPPOSITION TO DEBTOR'S MOTION TO DISMISS CASE

**DECLARATION OF DANIEL M. LINCHEY IN SUPPORT OF
TRUSTEE'S OPPOSITION TO DEBTOR'S MOTION TO DISMISS CASE**

on each party listed below by placing such a copy, enclosed in a sealed envelope with first class postage thereon affixed, in a United States Postal Service mailbox at San Francisco, California, addressed to each party listed below.

I declare under penalty of perjury that the foregoing is true and correct. Executed at San Francisco, California on November 25, 2009.

/s/ JEANNE ROSE

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